

Notice of Allowability

Application No.

10/761,905

Examiner

Tekchand Saidha

Applicant(s)

FEDER ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to April 12, 2007.
2. ☒ The allowed claim(s) is/are 27-32.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 4/12/07
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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Notice of Allowability

1. Amendment After-Final filed on April 12, 2007 is acknowledged. Claims 1-26 have been cancelled. Claims 27-32 are pending.

2. Claims 27-32 are allowed.

3. The following is an examiner's statement of reasons for allowance:

This Application provides a nucleic acid molecule comprising the polynucleotide sequence of SEQ ID NO: 1, vector, host cells and method of making the polypeptide recombinantly.

As used herein, the "polynucleotide" refers to a molecule having a nucleic acid sequence contained in SEQ ID NO: 1 or the cDNA contained within a MGAT3 clone, having one of ATCC Deposit Numbers PTA-4454 or PTA-4803, deposited on June 12, 2002 and November 14, 2002, respectively ("deposited clones"). The MGAT3 clones were deposited with the American Type Culture Collection ("ATCC"), which is located at 10801 University Boulevard, Manassas, Virginia 20110-2209, USA. The ATCC deposit made in the present invention was made pursuant to the terms of the Budapest Treaty on the international recognition of the deposit of microorganisms for purposes of patent procedure (See page 11 (last paragraph) and page 12 (first paragraph) of the instant specification, for example. Applicants' response to rejection of claims under 35 U.S.C. 112 first paragraph (deposit requirement) further state that "The subject matter having ATCC accession numbers PTA-4454 and PTA-4803 was deposited under the terms of the Budapest Treaty. The deposited subject matter will be irrevocably and without restriction released to the public upon issuance of a patent issuing from the instant application." Thus, having met the deposit requirement, claim 32 is allowed.

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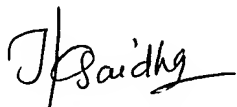
No prior art reference or sequence of record, taken alone or in combination teach the claimed invention of nucleic acid of SEQ ID NO: 1, vector, host cell or a method of making the polypeptide recombinantly (claims 27-31) or provide motivation to one of ordinary skill in the art to use the skills available in the area of enzymology or molecular biology, to make the invention obvious.

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tekchand Saidha whose telephone number is (571) 272 0940. The examiner can normally be reached on 8.30 am - 5.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy can be reached on (571) 272 0928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tekchand Saidha
Primary Examiner, Art Unit 1652
Recombinant Enzymes, 02A65 Remsen Bld.
400 Dulany Street, Alexandria, VA 22314
Telephone: (571) 272-0940
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